

protein or peptide; and (c) The regulatory region solely controls the activity of other sequences that code for protein or peptide molecules or act as recognition sites for the initiation of nucleic acid or protein synthesis.

[52 FR 22908, June 16, 1987, as amended at 53 FR 12913, Apr. 20, 1988; 55 FR 53276, Dec. 28, 1990; 58 FR 17056, Mar. 31, 1993; 62 FR 23956, May 2, 1997]

**§ 340.2 Groups of organisms which are or contain plant pests and exemptions.**

(a) *Groups of organisms which are or contain plant pests.* The organisms that are or contain plant pests are included in the taxa or group of organisms contained in the following list. Within any taxonomic series included on the list, the lowest unit of classification actually listed is the taxon or group which may contain organisms which are regulated. Organisms belonging to all lower taxa contained within the group listed are included as organisms that may be or may contain plant pests, and are regulated *if they meet the definition of plant pest in § 340.1*<sup>4</sup>

NOTE: Any genetically engineered organism composed of DNA or RNA sequences, organelles, plasmids, parts, copies, and/or analogs, of or from any of the groups of organisms listed below shall be deemed a regulated article if it also meets the definition of plant pest in § 340.1.

<sup>4</sup> Any organism belonging to any taxa contained within any listed genera or taxa is only considered to be a plant pest if the organism "can directly or indirectly injure, or cause disease, or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants." Thus a particular unlisted species within a listed genus would be deemed a plant pest for purposes of § 340.2, if the scientific literature refers to the organism as a cause of direct or indirect injury, disease, or damage to any plants, plant parts or products of plants. (If there is any question concerning the plant pest status of an organism belonging to any listed genera or taxa, the person proposing to introduce the organism in question should consult with APHIS to determine if the organism is subject to regulation.)

- GROUP
- VIROIDS
- Superkingdom Prokaryotae*
- Kingdom Virus*
- All members of groups containing plant viruses, and all other plant and insect viruses
- Kingdom Monera*
- DIVISION BACTERIA
- Family Pseudomonadaceae
  - Genus Pseudomonas
  - Genus Xanthomonas
- Family Rhizobiaceae
  - Genus Rhizobium
  - Genus Bradyrhizobium
  - Genus Agrobacterium
  - Genus Phyllobacterium
- Family Enterobacteriaceae
  - Genus Erwinia
- Family Streptomycetaceae
  - Genus Streptomyces
- Family Actinomycetaceae
  - Genus Actinomyces
- Coryneform group
  - Genus Clavibacter
  - Genus Arthrobacter
  - Genus Curtobacterium
  - Genus Corynebacteria
- Gram-negative phloem-limited bacteria associated with plant diseases
- Gram-negative xylem-limited bacteria associated with plant diseases
- And all other bacteria associated with plant or insect diseases
- Rickettsiaceae
  - Rickettsial-like organisms associated with insect diseases
- Class Mollicutes
  - Order Mycoplasmatales
    - Family Spiroplasmataceae
      - Genus Spiroplasma
    - Mycoplasma-like organisms associated with plant diseases
    - Mycoplasma-like organisms associated with insect diseases
- Superkingdom Eukaryotae*
- Kingdom Plantae*
- Subkingdom Thallobionta*
- Division Chlorophyta
  - Genus Cephaleuros
  - Genus Rhodochytrium
  - Genus Phyllosiphon

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- Division Myxomycota
- Class Plasmodiophoromycetes
- Division Eumycota
- Class Chytridiomycetes
- Order Chytridiales
- Class Oomycetes
- Order Lagenidiales
- Family Lagenidiaceae
- Family Olpidiopsidaceae
- Order Peronosporales
- Family Albuginaceae
- Family Peronosporaceae
- Family Pythiaceae
- Order Saprolegniales
- Family Saprolegniaceae
- Family Leptolegniellaceae
- Class Zygomycetes
- Order Mucorales
- Family Choanephoraceae
- Family Mucoraceae
- Family Entomophthoraceae
- Class Hemiascomycetes
- Family Protomycetaceae
- Family Taphrinaceae
- Class Loculoascomycetes
- Order Myriangiales
- Family Elsinoeaceae
- Family Myriangiaceae
- Order Asterinales
- Order Dothideales
- Order Chaetothyriales
- Order Hysteriales
- Family Parmulariaceae
- Family Phillipsiellaceae
- Family Hysteriaceae
- Order Pleosporales
- Order Melanommatales
- Class Plectomycetes
- Order Eurotiales
- Family Ophiostomataceae
- Order Ascophariales
- Class Pyrenomycetes
- Order Erysiphales
- Order Meliolales
- Order Xylariales
- Order Diaporthales
- Order Hypocreales
- Order Clavicipitales
- Class Discomycetes
- Order Phacidiales
- Order Helotiales
- Family Ascocorticaceae
- Family Hemiphacidiaceae
- Family Dermataceae
- Family Sclerotiniaceae
- Order Cyttariales

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- Order Medeolariales
- Order Pezzizales
- Family Sarcosomataceae
- Family Sarcoscyphaceae
- Class Teliomycetes
- Class Phragmobasidiomycetes
- Family Auriculariaceae
- Family Ceratobasidiaceae
- Class Hymenomycetes
- Order Exobasidiales
- Order Agaricales
- Family Corticiaceae
- Family Hymenochaetaceae
- Family Echinodontiaceae
- Family Fistulinaceae
- Family Clavariaceae
- Family Polyporaceae
- Family Tricholomataceae
- Class Hyphomycetes
- Class Coelomycetes
- And all other fungi associated with plant or insect diseases
- Subkingdom Embryobionta*
- NOTE: *Organisms listed in the Code of Federal Regulations as noxious weeds are regulated under the Federal Noxious Weed Act*
- Division Magnoliophyta
- Family Balanophoraceae—parasitic species
- Family Cuscutaceae—parasitic species
- Family Hydnoraceae—parasitic species
- Family Krameriaceae—parasitic species
- Family Lauraceae—parasitic species
- Genus *Cassytha*
- Family Lennoaceae—parasitic species
- Family Loranthaceae—parasitic species
- Family Myzodendraceae—parasitic species
- Family Olacaceae—parasitic species
- Family Orobanchaceae—parasitic species
- Family Rafflesiaceae—parasitic species
- Family Santalaceae—parasitic species
- Family Scrophulariaceae—parasitic species
- Genus *Alectra*
- Genus *Bartsia*
- Genus *Buchnera*
- Genus *Buttonia*
- Genus *Castilleja*
- Genus *Centranthera*
- Genus *Cordylanthus*
- Genus *Dasistoma*
- Genus *Euphrasia*
- Genus *Gerardia*
- Genus *Harveya*
- Genus *Hyobanche*
- Genus *Lathraea*
- Genus *Melampyrum*
- Genus *Melasma*
- Genus *Orphantha*
- Genus *Orthocarpus*

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Genus Pedicularis  
Genus Rhamphicarpa  
Genus Rhinanthus  
Genus Schwalbea  
Genus Seymeria  
Genus Siphonostegia  
Genus Sopubia  
Genus Striga  
Genus Tozzia  
Family Viscaceae—parasitic species

*Kingdom Animalia*

*Subkingdom Protozoa*

Genus Phytomonas

And all Protozoa associated with insect diseases

*Subkingdom Eumetazoa*

PHYLUM NEMATODA

CLASS SECERNENTEA

Order Tylenchida  
Family Anguinidae  
Family Belonolaimidae  
Family Caloosiididae  
Family Criconematidae  
Family Dolichodoridae  
Family Fergusobiidae  
Family Hemicycliophoridae  
Family Heteroderidae  
Family Hoplolaimidae  
Family Meloidogynidae  
Family Nacobbiidae  
Family Neotylenchidae  
Family Nothotylenchidae  
Family Paratylenchidae  
Family Pratylenchidae  
Family Tylenchidae  
Family Tylenchulidae  
Order Aphelenchida  
Family Aphelenchoididae

CLASS ADENOPHOREA

Order Dorylaimida  
Family Longidoridae  
Family Trichodoridae

PHYLUM MOLLUSCA

CLASS GASTROPODA

Subclass Pulmonata  
Order Basommatophora  
Superfamily Planorbacea  
Order Stylommatophora  
Subfamily Strophocheilacea  
Family Succineidae  
Superfamily Achatinaceae  
Superfamily Arionaceae  
Superfamily Limacacea  
Superfamily Helicacea  
Order Systellommatophora  
Superfamily Veronicellacea

Phylum Arthropoda

Class Arachnida

Order Parasitiformes  
Suborder Mesostigmata  
Superfamily Ascoidea  
Superfamily Dermanyssoidea  
Order Acariformes  
Suborder Prostigmata  
Superfamily Eriophyoidea  
Superfamily Tetranychoidae  
Superfamily Eupodoidea  
Superfamily Tydeidae  
Superfamily Erythraenoidea  
Superfamily Trombidioidea  
Superfamily Hydrphantoidea  
Superfamily Tarsonemoidea  
Superfamily Pyemotoidea  
Suborder Astigmata  
Superfamily Hemisarcoptoidea  
Superfamily Acaroidea

Class Diplopoda

Order Polydesmida

Class Insecta

Order Collembola  
Family Sminthoridae  
Order Isoptera  
Order Thysanoptera  
Order Orthoptera  
Family Acrididae  
Family Gryllidae  
Family Gryllacrididae  
Family Gryllotalpidae  
Family Phasmatidae  
Family Ronaleidae  
Family Tettigoniidae  
Family Tetrigidae  
Order Hemiptera  
Family Thaumastocoridae  
Family Aradidae  
Superfamily Piesmatoidea  
Superfamily Lygaeoidea  
Superfamily Idiostoloidea  
Superfamily Coreoidea  
Superfamily Pentatomoidea  
Superfamily Pyrrhocoroidea  
Superfamily Tingoidea  
Superfamily Miroidea  
Order Homoptera  
Order Coleoptera  
Family Anobiidae  
Family Apionidae  
Family Anthribidae  
Family Bostrichidae  
Family Brentidae  
Family Bruchidae  
Family Buprestidae  
Family Byturidae  
Family Cantharidae  
Family Carabidae  
Family Cerambycidae  
Family Chrysomelidae  
Family Coccinellidae  
Subfamily Epilachninae

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Family Curculionidae  
Family Dermestidae  
Family Elateridae  
Family Hydrophilidae  
    Genus *Helophorus*  
Family Lyctidae  
Family Meloidae  
Family Mordellidae  
Family Platypodidae  
Family Scarabaeidae  
    Subfamily Melolonthinae  
    Subfamily Rutelinae  
    Subfamily Cetoniinae  
    Subfamily Dynastinae  
Family Scolytidae  
Family Selbytidae  
Family Tenebrionidae  
Order Lepidoptera  
Order Diptera  
Family Agromyzidae  
Family Anthomyiidae  
Family Cecidomyiidae  
Family Chloropidae  
Family Ephydriidae  
Family Lonchaeidae  
Family Muscidae  
    Genus *Atherigona*  
Family Otitidae  
    Genus *Euxeta*  
Family Syrphidae  
Family Tephritidae  
Family Tipulidae  
Order Hymenoptera  
Family Apidae  
Family Caphidae  
Family Chalcidae  
Family Cynipidae  
Family Eurytomidae  
Family Formicidae  
Family Psilidae  
Family Siricidae  
Family Tenthredinidae  
Family Torymidae  
Family Xylocopidae

Unclassified organisms and/or organisms whose classification is unknown.

(b) *Exemptions.* (1) A limited permit for interstate movement shall not be required for genetic material from any plant pest contained in *Escherichia coli* genotype K-12 (strain K-12 and its derivatives), sterile strains of *Saccharomyces cerevisiae*, or asporogenic strains of *Bacillus subtilis*, provided that all the following conditions are met:

(i) The microorganisms are shipped in a container that meets the requirements of § 340.8(b)(3);

(ii) The cloned genetic material is maintained on a nonconjugation proficient plasmid and the host does not contain other conjugation proficient plasmids or generalized transducing phages;

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(iii) The cloned material does not include the complete infectious genome of a known plant pest;

(iv) The cloned genes are not carried on an expression vector if the cloned genes code for:

(A) A toxin to plants or plant products, or a toxin to organisms beneficial to plants; or

(B) Other factors directly involved in eliciting plant disease (i.e., cell wall degrading enzymes); or

(C) Substances acting as, or inhibitory to, plant growth regulators.

(2) A limited permit for interstate movement is not required for genetic material from any plant pest contained in the genome of the plant *Arabidopsis thaliana*, provided that all of the following conditions are met:

(i) The plants or plant materials are shipped in a container that meets the requirements of § 340.8(b) (1), (2), and (3);

(ii) The cloned genetic material is stably integrated into the plant genome;

(iii) The cloned material does not include the complete infectious genome of a known plant pest.

[52 FR 22908, June 16, 1987, as amended at 53 FR 12913, Apr. 20, 1988; 55 FR 53276, Dec. 28, 1990; 58 FR 17056, Mar. 31, 1993]

### § 340.3 Notification for the introduction of certain regulated articles.<sup>5</sup>

(a) *General.* Certain regulated articles may be introduced without a permit, provided that the introduction is in compliance with the requirements of this section. Any other introduction of regulated articles require a permit under § 340.4, with the exception of introductions that are conditionally exempt from permit requirements under § 340.2(b) of this part.

<sup>5</sup>APHIS may issue guidelines regarding scientific procedures, practices, or protocols which it has found acceptable in making various determinations under the regulations. A person may follow an APHIS guideline or follow different procedures, practices, or protocols. When different procedures, practices, or protocols are followed, a person may, but is not required to, discuss the matter in advance with APHIS to help ensure that the procedures, practices, or protocols to be followed will be acceptable to APHIS.